

Mary T. Thomas, et al. v. Marci Andino, et al.

C/A No.: 3:20-cv-01552-JMC

Exhibit 1
*to Defendants' Memorandum in Support of Motion for
Summary Judgment*

Deposition Excerpts of Jeremy Paul Rutledge

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

MARY T. THOMAS, NEA RICHARD,
JEREMY RUTLEDGE, TRENA WALKER,
THE FAMILY UNIT, INC., and the
SOUTH CAROLINA STATE CONFERENCE
OF THE NAACP,

Plaintiffs,

v.

C/A No.: 3:20-cv-01552-JMC

MARCI ANDINO, in her official capacity as
Executive Director of the South Carolina
State Election Commission; JOHN WELLS,
in his official capacity as Chair of the
South Carolina State Election Commission;
JOANNE DAY, CLIFFORD J. ELDER, LINDA McCALL,
and SCOTT MOSELEY, in their official capacity
as Members of the South Carolina State Election
Commission; and HENRY D. McMASTER, in his official
capacity as Governor of South Carolina,

Defendants.

D E P O S I T I O N

WITNESS: JEREMY PAUL RUTLEDGE

DATE: Friday, July 24, 2020

TIME: 10:06 a.m.

LOCATION: 1406 Glencoe Drive
Mount Pleasant, South Carolina

TAKEN BY: Attorneys for the Defendants
SC State Election Commission officials

REPORTED BY: DEBORAH L. DUSSELJEE, RPR, CRC
Realtime Systems Administrator

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1 early.

2 And I went one other time, which I
3 approximate to be about three weeks later, to retrieve
4 a number of books and things from my office because I
5 knew I wouldn't be working from the church office. I
6 was working from home. And, again, I went early to
7 avoid any people.

8 Q. You live with your wife and son; is that
9 correct?

10 A. Yes.

11 Q. Does anyone else live in your house?

12 A. No.

13 Q. Has anyone else been to your house since
14 March 13th?

15 A. Yes.

16 Q. Who's been there?

17 A. I will do my best to recall this for you,
18 and it's also recorded in the document we provided.
19 My wife and I sat down and were very thorough, so I'm
20 working from memory at this moment.

21 Who has come to my house since March 13th?
22 My mother and her housemate, Barbara Cole, have come
23 to our house. Our administrative assistant, Kathryn
24 Cullinan, has come to our house. Actually last
25 evening, our choir director, Michael Laird, and his

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1 wife Vanessa came to our house to pick up a computer.

2 All of these visits were outside at a
3 minimum of 15 feet with masks. In Michael and
4 Vanessa's case, we put the computer they were picking
5 up outside, and we did not come out of the house.

6 So in every case, we have kept a very strong
7 physical distance. There may be a visit that I'm not
8 recalling. I'm sort of straining to remember what we
9 put on that -- on the --

10 Q. And I'm not trying to test you right now as
11 compared to written responses, and we'll go through
12 those later, and I'll ask you who some of those people
13 are.

14 Where does your mother live?

15 A. My mother lives in a -- I mean, she lives in
16 Mount Pleasant.

17 Q. That's what I was asking, is she -- she
18 lives nearby.

19 A. Yes.

20 Q. How often have you seen her since
21 March 13th?

22 A. Oh, less than --

23 Q. Do you see her --

24 A. Go ahead.

25 Q. Do you see her once a week? Do you see her

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1 once a month? Have you seen her once in the last four
2 months?

3 A. I'm approximating. About three times a
4 month. Much less than we would like. Maybe --

5 Q. How often did you see her before March 13th?

6 A. Oh, several times a week, so...

7 I would -- let's just approximate twice a
8 week, and now it is more like twice a month.

9 Q. Got it. Speaking of people, there's a list
10 you gave us. This is, again, a response, the one you
11 were just talking about. One is a list of people who
12 may know something about this case, and the other one,
13 there is a list of people who you've seen.

14 And I just want to ask you who these people
15 are and when you saw them and just find out a little
16 bit about it. So obviously I know that Sara is your
17 wife. So that's easy on the first one.

18 Kathryn Cullinan, who is that?

19 A. She is the church administrator.

20 Q. Approximately how many times have you seen
21 her since March 13?

22 A. Only one that I can remember, so I would say
23 approximately two. I mean, it's possible. I work
24 with Kathryn very closely, but I only remember
25 physically seeing her once. Again, it was outside

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1 with face masks on at a distance.

2 Q. Barbara Cole is your mother, correct?

3 A. No. My mother is --

4 Q. No, I'm sorry. That's obviously not your
5 mother. Who is Barbara Cole again?

6 A. Barbara Cole is my mother's housemate. They
7 share a house together.

8 Q. Okay. Do you see her every time you see
9 your mother or just sometimes?

10 A. Just sometimes.

11 Q. Who is Dr. Brad Keith?

12 A. Dr. Brad Keith is one of -- I have three
13 doctors at MUSC, and he's one of my doctors.

14 Q. What is his specialty?

15 A. Internal medicine.

16 Q. Dr. Richard Silver, what is his specialty?

17 A. His specialty is rheumatology, and he is my
18 primary doctor. He's a specialist in my disease.

19 Q. Which -- since you mentioned it, what
20 condition do you have?

21 A. My disease is systemic scleroderma with
22 interstitial lung disease. And if Debbie needs me to
23 spell any of that, I would be happy to. It's
24 important, you know, that diagnosis.

25 Q. It is.

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1 Houston.

2 Q. What would they know about the case?

3 A. The same as our families, I think. They may
4 have even been included in that same e-mail, kind of a
5 newsy e-mail, what is happening with us, so...

6 Q. Now I am looking at the other list. This is
7 the people you've had some interaction with since
8 March. And some of this you mentioned, your mother
9 and her housemate.

10 And then there's Stephanie and Noel Hunt.
11 Who is that?

12 A. They are church members, and they are
13 neighbors.

14 Q. Approximately how close do they live to you?

15 A. Approximately one mile.

16 Q. Have you seen them more than just that one
17 time in April?

18 A. No.

19 Q. What do you remember about when you saw them
20 in April? Where was it? How long did it last?

21 A. It was at their house outside. We kept a
22 large physical distance. I would say 15 feet, and it
23 probably lasted 30 minutes at the longest. Perhaps it
24 was shorter than that.

25 I remember feeling a little nervous, you

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1 know, to be visiting, so maybe 20 to 30 minutes is my
2 estimate. Again, at a good social distance outdoors.

3 Q. Got it.

4 Lara D'Eugenio?

5 A. Yeah. Lara D'Eugenio, she's also a church
6 member and a friend. And we --

7 Q. Appro --

8 A. Go ahead.

9 Q. I was going to say, approximately where was
10 that and how long did it last?

11 A. That was at her house. I would approximate
12 that visit to be about 30 minutes. It was outside,
13 and I believe we wore masks as well. And that was
14 just one visit, so...

15 We kept --

16 Q. I don't want to cut you off. I'm sorry.

17 Who are Annie and Peter Steele?

18 A. They are also friends and church members.

19 We saw them once. It was here. It was outside at --

20 I would say, again, 15 feet. I'm pretty careful about
21 that distance and like to maintain that distance.

22 They had -- Annie had sewn us some new face masks, and
23 they were bringing them by to drop them off.

24 Q. Mike Fischer, who is he?

25 A. Mike -- Mike -- I'm sorry. I didn't mean to

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1 speak too soon.

2 Q. That's all right.

3 A. Mike Fisher is our neighbor. He lives
4 across the street and over one house.

5 Q. When you see him, is it just the comings and
6 goings of in and out of your house and his house?

7 A. Yes. He walks his dogs, and so we wave to
8 him probably once a day. They have concerns about
9 being high risk, so none of us get close to each
10 other. Often, we will wave to Mike from 50 feet or
11 more. So we keep a good distance from Mike, but we
12 see him -- see him every day.

13 Q. Treva Williams, Rose Stump, and is it
14 Raynique Syas?

15 A. Yes. Yes. They -- they came by once. And
16 I -- I'm sorry to say I can't estimate this very well.
17 I think it was probably two months ago.

18 Q. That's almost spot on to what you had
19 written down, so well done.

20 A. Okay. Days are a little fuzzy right now.
21 Time is better with time of day than how many days
22 have passed.

23 They came by once. I think they knew I was
24 feeling a little dejected by having stayed home so
25 long. And I work with them closely in the community,

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1 so they came by and brought like posters that said, We
2 love you Jeremy or whatever, and they were at the end
3 of my driveway.

4 So we were probably 15 feet away. Also, our
5 family had masks. And it was just that one visit.

6 Q. Who is Adam Parker?

7 A. Adam Parker is also a friend. He works for
8 "The Post and Courier" as well.

9 Q. Did you discuss this lawsuit with
10 Mr. Parker?

11 A. No.

12 Q. I see Barbara and Barry Sanders. I'm
13 guessing that's not the football player Barry Sanders.

14 A. No, no. They are church members, and we
15 visited them after a surgery one of them had. It was
16 a pastoral visit. We were going to visit them outside
17 their house, you know, 15 feet, face masks. That's
18 also how I visited with Adam, 15 feet and face masks.

19 When we went to see Barbara and Barry, it
20 was raining that day, so we actually were in our car,
21 and they were still in their house. So we called each
22 other and waved, so that was our way of keeping our
23 distance.

24 Q. Marcia and Tim West, who are they?

25 A. Marcia and Tim West are also friends from

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1 church. And we went to their house on their
2 anniversary to wish them happy anniversary and met
3 them outside at a distance, again, I would say, of 15
4 feet, maybe a little more. They have a big yard. We
5 wore face masks and -- yeah.

6 Actually, to be honest, now I cannot
7 remember if it was an anniversary or a birthday
8 because I have a vague memory of my son singing Happy
9 Birthday, so...

10 But it was a happy occasion we went to.

11 Q. It was something exciting.

12 And then finally Ivy Wadsworth.

13 A. Ivy Wadsworth is a friend and a neighbor,
14 and they live two blocks away. And we saw her once on
15 a walk. She was outside of her house, and we spoke
16 with her briefly. Again, at about 15 feet.

17 We are always wearing face masks when we go
18 for a walk. And I believe that was just one time.
19 That was relatively recently. It was in the last two
20 weeks.

21 Q. Your thing says July 13th, so, again, spot
22 on.

23 A couple of -- you have a list of places
24 you've been, some -- like forests and the beach. You
25 have Marion Square on your list. When did you go to

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1 A. Yes, generally.

2 Q. I want to talk a little bit about the
3 witness requirement first.

4 Could your wife be the witness for your
5 absentee ballot?

6 A. Could my wife be the witness for my absentee
7 ballot? The answer this morning is yes. If we were
8 voting this morning, she could be.

9 Q. You don't wear a face mask in your house, do
10 you?

11 A. No.

12 Q. Your wife lives there and doesn't wear a
13 face mask at home either.

14 A. That's correct.

15 Q. Right. You see your wife basically more
16 times a day than you can count, correct?

17 A. Yes.

18 Q. Good answer.

19 All right. So I want to talk about the
20 qualification requirement now. It's what your lawyers
21 have called the excuse requirement. I don't want to
22 get in a spitting contest over what we call it, but it
23 is the requirement that you must have a reason to vote
24 absentee because it's not open to just everyone.

25 I have the declaration that was filed with

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1 A. Yeah, that's the only --

2 Q. Okay.

3 A. You have all that.

4 Q. We do. I just wanted to make sure you
5 weren't going to tell me what you told your lawyers
6 because that's privileged, and I don't want to ask
7 about that.

8 A. Yeah.

9 Q. And if you had started to, I don't know who
10 was going to stop you first, your lawyer or me.

11 All right. Do you know anyone who
12 contracted COVID-19 because they voted in the
13 June 9th, 2020 primary?

14 A. I do not know anyone that has told me that.
15 I'm not sure how I would know who contracted COVID and
16 how they got it. Or let me rephrase that. I'm not
17 sure I would know from someone with COVID where
18 exactly they contracted it, so I can't say -- can't
19 say with any certainty.

20 MR. LAMBERT: Those are the only questions I
21 have at this time.

22 As you probably realized, there are a lot of
23 other lawyers on this videoconference now. So
24 unfortunately, I have got to hand you off to them, and
25 you are not off the hot seat just yet. But

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1 Mr. Rutledge, I appreciate you taking time this
2 morning to answer my questions and talk to me.

3 THE WITNESS: Could I clarify one answer as
4 well?

5 MR. LAMBERT: Sure.

6 THE WITNESS: When you asked if Sara could
7 be a witness for me and I said today she could be,
8 that is because she has stayed at home with me since
9 the schools closed in March. So we've been in a
10 bubble, and that allows us to safely be together.

11 If that bubble is broken, then the answer
12 would be no. And as we approach the start to school,
13 that's why I said today the answer is yes. But I just
14 wanted to clarify that's only for today.

15 BY MR. LAMBERT:

16 Q. So what would happen if the bubble were
17 broken? Would you or she have to go live somewhere
18 else?

19 A. Yes, and, in fact, that is our plan. When
20 the bubble is broken, Sara and Ian will go to live in
21 another house, and we will live separately until
22 there's a vaccine because the risk, again, is just too
23 great. Nobody wants me to die, right? And so --

24 Q. No, certainly not.

25 A. I didn't mean to be flip. I just meant --

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1 yeah, so our plan is, once the bubble is broken, we
2 will have to live separately.

3 Q. If you have to do that, do you have any
4 thoughts about how you will see them, whether it's
5 socially distanced outside with a mask on? Have you
6 thought about what that might look like?

7 A. Yes. The only thing we have discussed is
8 the possibility of, you know, trying to meet at the
9 end of a school week, perhaps in a park or someplace
10 we can identify outdoors with masks at a distance,
11 again, in order to -- at least to keep me in a kind of
12 bubble or to keep me safe from infection.

13 Q. You would assume you're going to try to do
14 something, whenever this bubble breaks, so that you
15 can actually see your wife and son in person and not
16 go necessarily 8, 10, 12 months without laying eyes on
17 them; is that fair?

18 A. Yes. We would like to find a way to lay
19 eyes on each other.

20 Q. As if I were in your shoes, I would too. I
21 couldn't imagine it being otherwise.

22 If you were to figure out a way to be able
23 to see them in a park or some sort of public space
24 outdoors with masks, would it be possible there for
25 you to bring an absentee ballot and an envelope and

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1 sign it and put it on a bench and then walk back and
2 your wife walk over and sign it and then leave it
3 there for you?

4 A. I think that is in the realm of possibility.
5 There's a little bit -- I've thought about this
6 question because I've wondered it myself.

7 It's a little speculative to me, speculative
8 because it would -- it would really require that we
9 find a park that works for us, that nobody is sick at
10 the time, that the weather is good, you know, from my
11 point of view that nobody else is around because I
12 would want my vote to be private. And so it requires
13 a lot of things to go right.

14 Q. It does. I think just today as you think
15 about it, your -- the ballot goes in the envelope, and
16 the envelope gets sealed, and the outside of the
17 envelope is what's signed.

18 So I think at least you don't have to worry
19 about the vote being private in the sense of someone
20 seeing your ballot. Your wife wouldn't even
21 necessarily see it and know who you voted for unless
22 you told her. So at least that's one piece of it you
23 could not have to worry about.

24 Unless you have anything else to clarify,
25 I'm going to pass you off now to -- I don't know who's

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1 coming after me, but they can fight over who gets you
2 next.

3 MR. BURNS: Before we conclude, there wasn't
4 a pause before the end of your statement. I wanted to
5 object to the form of the last statement Mr. Lambert
6 made.

7 BY MR. LAMBERT:

8 Q. In that case, if I can do one thing, let me
9 ask a question then to follow up on that with the
10 objection to form.

11 Mr. Rutledge, are you aware that the ballot
12 goes in an envelope, which is sealed, and then that
13 envelope is which has the signatures on it for you and
14 for the witness?

15 A. Yes. I'm aware that the signatures can be
16 added to the sealed envelope.

17 MR. LAMBERT: Thank you very much. In that
18 case, I will now actually pass you off for real this
19 time.

20 THE WITNESS: Thank you.

21 MR. BURNS: If we could, I think now is a
22 good time for a brief five-minute break to give
23 Reverend Rutledge a chance to catch his breath. If
24 that's okay with everyone, we'll take a brief
25 five-minute break.

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1 because she was still, you know, living in the bubble
2 with me, and we didn't want there to be any reason for
3 that ballot to get thrown out.

4 So since we were all still living in the
5 same house, it was an easy thing to do. We went ahead
6 and did that to ensure that the vote was counted.

7 Q. And Mr. Lambert asked you a couple of
8 questions or commented about your declaration. And I
9 think it said something about under your
10 interpretation of the excuse requirement, you don't
11 qualify to vote absentee.

12 Is that an accurate statement?

13 A. Yes, and that's still my interpretation. I
14 do not consider myself to be a disabled person, and I
15 think that there's some medical definitions about
16 being disabled that I don't believe I meet.

17 Q. Have you called anybody, like your -- I
18 guess you're in Charleston County, right, or are you
19 in Berkeley County?

20 A. I'm in Charleston County.

21 Q. Have you called your Charleston County
22 election commission to see if your interpretation is
23 accurate?

24 A. No. To see if my interpretation of my
25 medical condition is accurate?

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1 share with them.

2 But does that answer your question? I'm not
3 sure I followed exactly what you were asking.

4 Q. Sure. And could you give me the names of
5 those folks that you referenced?

6 A. Yeah. Senator Kimpson, I see from time to
7 time. And then I'm trying to think of some of my
8 friends from the Furman program. Tom Davis, I believe
9 I have spoken with about different things. It's been
10 a while. Beth, and I'm blanking on her last name. I
11 can provide these for you.

12 Just friends that I've called about
13 different things or reached out to, especially
14 relating to the pandemic in our state and the spread
15 of the virus. But not about --

16 Q. But you don't recall -- just to be clear,
17 you don't recall ever contacting any house member or
18 senator requesting that they change the law related to
19 absentee ballots for the upcoming election.

20 A. No. I think my focus has not been on trying
21 to get the legislature to change the law this quickly.
22 It had been more about going to the Election
23 Commission, which seems like the way that something
24 could happen quickly during an election year. That's
25 been my understanding as a citizen.